

REMARKS/ARGUMENTS

The Non-Final Rejection dated December 4, 2006 has been reviewed and carefully considered. In this response, claims 1, 5-6, 11, 18-19, and 22 have been amended to clarify that the servicing scheme is a defined, non-random scheme. *See* Specification on at least p. 19, line 3 – p. 20, line 2. No new matter has been added. Thus, claims 1-24 are currently pending. Reconsideration and allowance of all of the pending claims is respectfully requested in view of the following remarks.

Initially, it is respectfully submitted that claim 18, which depends on independent claim 1, has not been examined on the merits by the Office. The Office Action has not indicated any reason as to why the claim was not examined. Accordingly, it is respectfully requested that claim 18 be treated on the merits by the Examiner in the next Office Action.

I. The Independent Claims are Patentable Over Welland

Claims 1-2, 4-8, 10-16, and 19-21 currently stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,247,677 to Welland *et al* (“Welland”). Applicants respectfully disagree.

The disclosure of Welland fails to show at least the limitation directed to “servicing each of the incoming jobs based on the priority assigned to each job and on a non-random servicing scheme,” as expressly recited in amended claim 1. Applicants respectfully submit that Welland makes no mention of a applying a *non-random* servicing scheme to service each of the incoming jobs. Rather, Welland’s scheduler implements a stochastic scheme for selecting tasks at *random*. *See* col. 5, lines 24-41 (emphasis added). In fact, Welland discloses that the probability of any given task being chosen is proportional to that task’s priority. *See* col. 6, lines 27-29. As a result, Welland’s scheduler, at best, selects and executes a task that is weighted by a

task priority based on *probability*. See col. 8, lines 38-46 (emphasis added). This is clearly distinguishable from embodiments of the claimed invention, which are directed to processing multiple incoming jobs in a reporting system, in which each job is assigned a respective priority and serviced based on the priority assigned and on a non-random servicing scheme.

As a result, the disclosure of Welland fails to disclose or show at least the limitation directed to “servicing each of the incoming jobs based on the priority assigned to each job and on a non-random servicing scheme,” as recited in claim 1. These features are simply not disclosed or even contemplated by Welland. For a proper rejection under 35 U.S.C. § 102(e), each and every claim limitation must be shown in a single reference. The Office Action has failed to meet this requirement and thus the rejection is unsupported and should be withdrawn.

Regarding independent claim 9, the claim recites subject matter related to claim 1. Thus, the arguments set forth above with respect to claim 1 are equally applicable to claim 9. Accordingly, is it respectfully submitted that claims 9 is allowable over Welland for the same reasons as set forth above with respect to claim 1.

Claims 22-24 currently stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable by Welland in view of taking Office Notice. Applicants respectfully disagree.

As discussed above, Welland fails to disclose or show at least the limitation directed to “servicing each of the incoming jobs based on the priority assigned to each job and on a non-random servicing scheme,” as recited in claim 1. Thus, the arguments set forth above with respect to claim 1 are equally applicable to claim 22. Accordingly, is it respectfully submitted that claim 22 are allowable over Welland for at least the same reasons as set forth above with respect to claim 1.

Furthermore, the Office Action has taken Official Notice without providing sufficient documentary evidence, or a technical line of reasoning underlying the decision to take such notice, to support its conclusions. Simply alleging that computer readable mediums are the “convention” does not render its use for processing multiple incoming jobs based on assigned priority and a non-random servicing scheme obvious. Thus, the use of Official Notice, without more, is clearly inappropriate in the present situation.

Dependent claims 2-18, 20-21, and 23-24 depend from either independent claim 1, 19, or 22. As such, each of these dependent claims contain each of the features recited in the independent claims. For the reasons stated above, Welland fails to disclose the claimed invention and therefore the rejections should be withdrawn.

II. The Secondary References (Szlam and Bigus) Do Not Remedy Deficiencies of Welland

Claims 9 and 17 currently stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable by Welland in view of U.S. Patent No. 5,594,791 to Szlam *et al* (“Szlam”).

The Office asserts that modifying Welland to include the purported administrator override feature of Szlam would have been obvious because the modification would “produce a more flexible and efficient system” and would “augment the computer method or process with a means of allowing for a greater control and flexibility of operations.” *See* Office Action at p. 4. However, such a statement represents classic impermissible hindsight. The Office Action fails to provide any *evidence* as to why one of ordinary skill in the art would choose to implement the purported administrator override feature in the way claimed. Apparently, the Office’s statement that it would produce a “more flexible and efficient system” and “augment” Welland’s system is wholly unsupported. In fact, nowhere in Szlam is “more flexible and efficient system” or “augment” even mentioned. Rather, Szlam merely discloses an administrator capable of only

terminating and allowing various campaigns or tasks. Therefore, Szlam does not mention or even contemplate overriding a non-random servicing scheme for servicing incoming jobs based on assigned priorities, as recited in claims 9 and 17. Furthermore, the Office fails to set forth an explanation as to **why** one of ordinary skill in the art would have been motivated to use the alleged administrator override feature as in Szlam with a stochastic priority scheduler as in Welland, or if one did, **how** that would work. As a result, there is no suggestion that Welland or Szlam could be modified to process multiple incoming jobs in a reporting system by servicing each incoming job based on the assigned priority and on a non-random servicing scheme.

Claim 3 currently stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable by Welland in view of U.S. Patent No. 5,442,7301 to Bigus *et al* ("Bigus").

The Office asserts that modifying Welland to include the purported cost parameter priority feature of Bigus would have been obvious because the modification would "augment the computer method or process [of Welland] with a means of allowing for a greater control and flexibility of operations." *See* Office Action at p. 5. Again, however, such a statement represents classic **impermissible hindsight**. The Office Action fails to provide any **evidence** as to why one of ordinary skill in the art would choose to implement the purported cost parameter priority feature in the way claimed. Apparently, the Office's statement that it would "augment" and improve "control and flexibility" of Welland's system is wholly unsupported. In fact, nowhere in Bigus is "augment" or improving "control and flexibility" even mentioned. Rather, Bigus merely discloses a delay cost priority and does not mention or even contemplate a non-random servicing scheme for servicing incoming jobs based on an assigned priority, such as an estimated cost of the job, as recited in claim 3. Furthermore, the Office fails to set forth an explanation as to **why** one of ordinary skill in the art would have been motivated to use the

alleged cost parameter priority feature as in Bigus with a stochastic priority scheduler as in Welland, or if one did, *how* that would work. As a result, there is no suggestion that Welland or Bigus could be modified to process multiple incoming jobs in a reporting system by servicing each incoming job based on the assigned priority and on a non-random servicing scheme.

Accordingly, reconsideration and allowance of all of the claims is respectfully requested.

CONCLUSION

Since the cited references, taken either singly or in combination, fail to teach or suggest the combinations set forth in the pending claims, and further fail to provide any motivation or suggestion of the desirability of modifying the structures or methods to arrive at the claimed combinations, Applicants submit that the pending claims are allowable over the cited references. Accordingly, Applicants respectfully request that the Examiner withdraw his rejections, allow the pending claims and pass the application to issue.

If the Examiner believes that a telephone conference or interview would advance prosecution of this application in any manner, the undersigned stands ready to conduct such a conference at the convenience of the Examiner.

If there are any fees due under 37 C.F.R. §1.116 or §1.117 which are not enclosed herewith, including any fees required for extension of time under 37 C.F.R. §1.136, please charge such fees to our Deposit Account No. 50-0206.

Respectfully submitted,

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